April 20, 2004

Standing Committee on Social Development
Second Report of the First Session Sixty-second General Assembly
Retail Sale of Tobacco Products

Mr. Speaker and Members of the Legislative Assembly,

Executive Summary

The Standing Committee on Social Development was directed by the Legislative Assembly on December 12, 2003, to hold public hearings across the province regarding the retail sale of tobacco products and report back to the Legislature.

Your Committee placed advertisements in various newspapers, inviting residents of Prince Edward Island to share their issues and concerns regarding the retail sale of tobacco products. Your Committee held six meetings to plan its work, to hear presentations, and to review written briefs. Following the public consultation phase, the Committee met twice *in camera* to consider, in detail, the information placed before it and to formulate its recommendations to the Legislative Assembly.

After due consideration, we respectfully submit to the Members of the Legislative Assembly our findings, and the resulting recommendations for your consideration.

1. **It is recommended that legislation be introduced as soon as possible:**

   (A) To prohibit the sales of tobacco products in the following designated places:

   - **(i) hospitals**
   - **(ii) health facilities**
   - **(iii) nursing homes**
   - **(iv) provincial government buildings**
   - **(v) municipal government buildings**
   - **(vi) schools and other buildings operated by a school board**
   - **(vii) post-secondary educational institutions**
   - **(viii) recreational facilities, athletic facilities, theatres, arcades and amusement parks;**

   (B) To prohibit tobacco vending machines and self-service tobacco displays;

   (C) To prohibit any visible display of tobacco products, including countertop displays or signage indicating the price and availability of tobacco products, in all establishments licensed under the *Liquor Control Act*;

(D) To prohibit the sale of tobacco products as of June 1, 2005, in the following designated places:

(i) pharmacies
(ii) establishments where goods or services are sold to the public, if

(a) a pharmacy is located within the establishment,
(b) customers or employees of such pharmacy can pass into the establishment directly or by the use of a door, corridor or area used exclusively to connect the pharmacy within the establishment, or,
(c) a pharmacy, or an establishment within which there is a pharmacy, is located adjacent to or within twenty metres of the establishment and the two premises are associated with each other by ownership, contract or otherwise;

(E) To prohibit retail display and point of sale signage used to advertise or promote tobacco products in all retail establishments as of January 1, 2006.

Further, your Committee recommends:

2. **That current regulations pertaining to mandatory signage for establishments selling tobacco products be reviewed. Your Committee recommends that required signage be vivid, prominently displayed and convey information concerning the effects of tobacco products on health, in addition to legal information relating to the sale of tobacco products to minors.**

3. **That the current penalties prescribed in the *Tobacco Sales to Minors Act* (Section 8) be reviewed.**

4. **That the Legislative Assembly of Prince Edward Island commend all organizations and their volunteers who work to protect Island families from the health effects and consequences of tobacco use.**

Introduction

On December 12, 2003, the following motion (Motion # 24) was passed unanimously in the Legislative Assembly:

> **WHEREAS** government members of the Prince Edward Island Legislative Assembly seek the input of residents of the province of Prince Edward Island regarding the retail sale of tobacco products;
> **AND WHEREAS** any change in legislation regarding the sale of tobacco products in

Island retail outlets should reflect the views of Prince Edward Island residents;

THEREFORE BE IT RESOLVED that the House direct the Standing Committee on Social Development to hold public hearings across the Province and report back to this Legislature.

Committee Membership

Permanent members of your Committee are:

Wayne Collins, Chairman (District 15, Winsloe-West Royalty)
Carolyn Bertram (District 17, Crapaud-Hazel Grove)
Hon. Robert Ghiz (District13, Charlottetown-Rochford Square)
Hon. Kevin MacAdam (District 2, Morell-Fortune Bay)
Wilbur MacDonald (District 6, Belfast-Pownal Bay)
Hon. Elmer MacFadyen (District 10, Sherwood-Hillsborough)
Beth MacKenzie (District 18, Park Corner-Oyster Bed)
David McKenna (District 7, Glen Stewart-Bellevue Cove)

Substitute members of your Committee included:

Jim Bagnall (District 4, Montague-Kilmuir)
Richard Brown (District 12, Charlottetown-Kings Square)
Wes MacAleer (District 14, Charlottetown-Spring Park)
Fred McCardle (District 19, Bordon-Kinkora)
Andy Mooney (District 1, Souris-Elmira)

Public Consultation Phase

Your Committee met on December 16, 2003, to elect a chairman. Your Committee met again on January 8, 2004, to plan its work schedule for this matter. It was agreed to place a series of advertisements to solicit public input on the topic of retail sale of tobacco products. Your Committee also decided to invite representatives from the Provincial Treasury and the Provincial Department of Health and Social Services to brief your Committee on the current situation of tobacco sales in the province.

At its meeting of January 15, 2004, your Committee was provided with an overview of the economics of the trade in tobacco products and the history of taxation by the province. The value of tobacco sales on Prince Edward Island is approximately $65 million dollars. Of that, the provincial health tax receives approximately 41.5% of the total sales value. Following the presentation from the Provincial Treasury, your Committee heard from representatives from the Department of Health and Social Services. Your Committee was given an assessment of various issues surrounding tobacco use on Prince Edward Island, including estimates of heath care costs to the province. Recent information indicates that the direct burden from tobacco use on the public health system is approximately $10 million dollars annually. In addition, there is another

$43 million dollars attributable to lost productivity from tobacco use. Perhaps the most troubling statistic is that in excess of 90% of smokers start before the age of 19 years.

On January 17 and January 19, 2004, the advertisements inviting organizations and individuals to present their views to your Committee on this topic were published in *The Guardian* and the *Journal Pioneer*; on January 21, 2004, the ad appeared in *West Prince Graphic* and the *Eastern Graphic*, and a French language version ran in *La voix acadienne* on the same date.

At its meeting of February 12, 2004, your Committee discussed the public's response to the advertisements and scheduled public hearings for February 26 and March 11, 2004, in Charlottetown, and March 4, 2004, in Summerside, Prince Edward Island.

On February 26, 2004, your Committee heard presentations from a private citizen, and the President and a member-at-large of the Council for a Smoke-Free P.E.I.

On March 4, 2004, your Committee heard presentations on this topic from a private citizen, the Executive Director of the P.E.I. Pharmaceutical Association, the Research Director for Physicians for a Smoke-Free Canada, a member of the Canadian Federation of Independent Business, students involved with the SWITCH (Students Working In Tobacco Can Help) Club, the Acting Executive Director and the President of the Board of Directors of the P.E.I. Division of the Canadian Cancer Society, and the Executive Director and the President of the Board of Management of the P.E.I. Lung Association.

At its final public meeting on March 11, 2004, presentations were made to your Committee by an executive of Imperial Tobacco Canada, the Senior Policy Analyst for the National Office of the Canadian Cancer Society, representatives and community partners of Operation ID and Operation ID School Zone, two physicians appearing on behalf of the Medical Society of Prince Edward Island, a representative of the National Convenience Store Distributors Association, and the President and Communication Co-ordinator for the Heart and Stroke Foundation of Prince Edward Island.

In addition to the personal representations made to your Committee, there were 55 written submissions, emails, faxes, petitions and telephone calls or voicemail messages received by your Committee, as well as a number of documents relating to the Committee's deliberations on this topic filed with the Clerk of Committees over the course of the public consultation phase. Your Committee thanks all those who participated in the process by submitting their views.

All briefs and associated papers are retained in the permanent files of your Committee in the Office of the Legislative Assembly. A complete list of interveners forms Appendix A; a list of documents received by your Committee is contained in Appendix B of this report.

Your Committee met *in camera* on April 5, and April 19, 2004, to consider its recommendations to the Legislative Assembly.

Recommendations

1. It is recommended that legislation be introduced as soon as possible:

(A) To prohibit the sale of tobacco products in the following designated places: hospitals, health facilities, nursing homes, provincial government buildings, municipal government buildings, schools and other buildings operated by a school board, post-secondary educational institutions, recreational facilities, athletic facilities, theatres, arcades and amusement parks;

(B) To prohibit tobacco vending machines and self-service tobacco displays;

(C) To prohibit any visible display of tobacco products, including countertop displays or signage indicating the price and availability of tobacco products, in all establishments licensed under the Liquor Control Act;

(D) To prohibit the sale of tobacco products as of June 1, 2005, in the following designated places:

(i) pharmacies
(ii) establishments where goods or services are sold to the public, if

(a) a pharmacy is located within the establishment,
(b) customers or employees of such pharmacy can pass into the establishment directly or by the use of a door, corridor or area used exclusively to connect the pharmacy with the establishment, or
(c) a pharmacy, or an establishment within which there is a pharmacy, is located adjacent to or within twenty metres of the establishment and the two premises are associated with each other by ownership, contract or otherwise;

(E) To prohibit retail display and point of sale signage used to advertise or promote tobacco products as of January 1, 2006.

Your Committee heard from many individuals and organizations working in the areas of tobacco control, education, awareness and cessation. There was a high degree of consistency within the presentations relative to what is required to strengthen and support their continued efforts in these areas. The majority of these presentations stressed the well-documented adverse health effects of tobacco use–including cancers, heart disease, stroke, and lung diseases. Your Committee was reminded that exposure to second-hand smoke is equally harmful and particularly places children at risk.

Your Committee was told that tobacco use is a public health problem with chilling statistics. It is the leading preventable cause of disease and death in Canada each year. More than 47,000 Canadians die each year, or more than 128 individuals each day–*one every 12 minutes*–as a

result of tobacco use. Tobacco use is a burden to the public health system in Prince Edward Island, accounting for $10 million dollars each year in direct health costs and an additional $43 million dollars each year in lost productivity. The human costs of tobacco dependancy, disease and death to Island families are, of course, incalculable.

Your Committee is satisfied that there is sufficient justification to recommend an immediate ban on sales of tobacco products in all hospitals, health facilities, nursing homes, provincial government buildings and municipal government buildings. It is obvious that a product harmful to health should not be sold in facilities dedicated to the health of Prince Edward Islanders. Further, government must lead by example by restricting access to tobacco products in facilities and buildings it owns and operates.

Tobacco use among our adolescent population is a major concern. Young people are at risk. Most smokers start before the age of 19 years and, by age 20, 80% of smokers regret they have started. However, because of their addiction, they will continue to smoke for most of their adult lives. Prohibiting tobacco sales in places where young people gather–in schools, and sports and recreational facilities–will support comprehensive tobacco reduction initiatives already in place in the province. Measures which reduce exposure and "denormalize" tobacco use reinforce the message that use of tobacco products is a major health hazard.

Information presented to your Committee indicated that other Canadian jurisdictions, including Ontario, Nova Scotia and Nunuvut, have banned sales of tobacco products through vending machines. Your Committee believes a similar step is appropriate in this province. Although the use of vending machines is not a widespread practice, a ban would support the message that smoking is a deadly habit and tobacco products are, therefore, sold in a controlled manner. Furthermore, it removes a possible access point for underage smokers, as well as a visual cue for those persons trying to "kick the habit."

Your Committee recommends that sales of tobacco products not be prohibited in establishments licensed under the *Liquor Control Act* at this time but that the display of any such products, including signage indicating the availability or prices of tobacco products, be prohibited. A restriction on displays of tobacco products is consistent with the aims of the *Smoke Free Places Act* and supports other tobacco control initiatives.

Your Committee recommends that there be a ban on the sale of tobacco products in all pharmacies, and facilities associated with, or located in proximity to, pharmacies, in the province, effective June 1, 2005. Prince Edward Island is the only province east of Manitoba currently without a ban on tobacco sales in pharmacies. Legislation exists in Ontario, Quebec, Nunavut, New Brunswick and Nova Scotia prohibiting tobacco sales in stores that contain pharmacies. Newfoundland and Labrador is presently phasing in legislation to accomplish the same result.

Your Committee believes that the sale of tobacco products in pharmacies is incompatible with the position of the pharmacist as a health-care professional and the image of a pharmacy as a heath centre. Given the grave health concerns surrounding tobacco use, it cannot be considered

ethical behaviour. Nationally, the Canadian Pharmaceutical Association has adopted a position statement calling for a ban on tobacco sales in pharmacies, and most pharmacists in Prince Edward Island have voluntarily removed tobacco products from their retail stores. Your Committee supports the position that pharmacies should not benefit financially from the addiction and illness of tobacco users by, in effect, "creating" patients who need prescription medications and smoking cessation counseling and products.

A ban on tobacco sales in pharmacies is an additional reinforcement to the tobacco control work which government and community organizations have undertaken for years. It has been proven that the reduction of smoking rates will only be achieved through a comprehensive approach, which includes reduced availability and supply of the product. Your Committee believes the legislation it is recommending will support the work currently being done to reduce the impact of smoking, as well as supporting pharmacists as well-respected and trusted health-care professionals.

The P.E.I. Pharmaceutical Association has requested a phase-in period to adjust to any new legislation banning the sale of tobacco products in pharmacies. Your Committee is aware of the financial realities facing community pharmacies, and the impact a prohibition on selling tobacco will have. Therefore, your Committee is recommending a phase-in period to June 1, 2005, to allow pharmacy owners to make necessary adjustments.

Balancing the information presented by many individuals and community groups working in the areas of tobacco reduction were the concerns expressed, primarily by owners and independent operators of small retail businesses, about potential economic consequences resulting from a wide-spread ban on tobacco sales. Your Committee is sensitive to their situation and the retail environments in which they operate, and is not recommending a ban on sales of tobacco products in retail establishments such as convenience stores or corner stores.

Your Committee was presented with conflicting views on the purpose of "power walls," colourful wall displays of tobacco products located in retail stores, for which retailers receive direct payment from tobacco companies. Research presented by the Prince Edward Island Division of the Canadian Cancer Society indicates that approximately 58% of tobacco purchases are not specifically planned, and if displays are removed, purchases and consumption are expected to decrease. An opposing view was advanced by a representative of Imperial Tobacco Company. He maintained the purpose of tobacco displays is to maintain brand loyalty and to capture a greater market share of current adult smokers. After considerable discussion, your Committee is satisfied that "power walls" are a form of advertising aimed at the entire population. As such, they influence adolescents to experiment with tobacco, deter current smokers from quitting, prompt former smokers to begin smoking again and increase smokers' daily consumption by serving as an external cue to smoke.

Therefore, your Committee recommends a ban on retail display and point of sale signage used to advertise or promote tobacco products as of January 1, 2006.

2. ***It is recommended that current regulations pertaining to legally-mandated signage for establishments selling tobacco products be reviewed. Your Committee recommends that required signage be vivid, prominently displayed and convey information concerning the lethal effects of tobacco products on health, in addition to legal information relating to the sale of tobacco products to minors.***

Your Committee recommends the Minister of Health and Social Services review the regulations associated with the *Tobacco Sales to Minors Act* regarding mandatory signage displayed in establishments selling tobacco products, with a view to increasing its visual impact–in terms of colours, size and placement–and adding a strong health warning concerning the effects of tobacco product. Your Committee is aware that there is a project now underway entitled "Reducing Youth Access to Tobacco Project" which has a component relating to signage redesign, and encourages the Minister to implement changes to counteract the effects of "power walls" which promote tobacco use.

During the course of the public consultation, your Committee heard presentations regarding the messages and effectiveness of signage provided by the Operation ID and Operation ID/School Zone campaigns, programs which are designed and funded by the Canadian Tobacco Manufacturers' Council. Committee members endorse any positive effects of the programs in reducing illegal sales of tobacco to underage youth, but remain concerned about the absence of an associated health warning on Operation ID signage, as well as the positioning of tobacco as a normal consumer product available to youth once they reach the age of 19.

3. ***It is recommended that the current penalties prescribed in the Tobacco Sales to Minors Act (Section 8) be reviewed.***

Your Committee was told that current penalties for offences, in particular for a first offence, under the *Tobacco Sales to Minors Act* may be a deterrent to the rigorous enforcement of the Act. A review of the fine regime is recommended to determine if this is the case. Your Committee is satisfied that the majority of retailers are consistently refusing sales of tobacco products to minors, and agrees that continued monitoring and education for retailers is an important component for compliance with the Act.

4. ***It is recommended that the Legislative Assembly of Prince Edward Island commend all organizations and their volunteers who work to protect Island families from the health effects and consequences of tobacco use.***

Many dedicated volunteer organizations and individuals made presentations, submitted briefs and attended the public hearings held during the public consultation phase of your Committee's investigations into retail sale of tobacco products in the province. Your Committee was impressed with their passion and commitment to research, education, patient services and advocacy for healthy public policy. Your Committee recommends that the Legislative Assembly commend them for their continued efforts on behalf of all Islanders.

Conclusion

The most effective strategy for reducing the negative impact of tobacco is a co-ordinated one, comprising health awareness and promotion, prevention and cessation initiatives, legislation, enforcement and taxation. Your Committee acknowledges the current legislation, the programs and services that are already in place surrounding tobacco use in the province, and presents these recommendations as part of a comprehensive provincial plan and direction towards a healthier future for all Islanders.

Respectfully submitted,

Wayne Collins, MLA
Chairman
Standing Committee on Social Development

Appendix A
List of Interveners

- 1002400 P.E.I. Inc.
- Allen, Julie
- Blaquiere, Len and Sherry
- Bloomfield Esso
- Boswell, Dr. Guy
- Boys and Girls Clubs P.E.I.
- Bradley, Greg
- Brien, Elaine
- Bruce, Rosalie
- Canadian Cancer Society
- Canadian Federation of Independent Business
- Cavendish Tourist Mart Inc.
- Ceretti's Grocery and Hardware
- Christensen, Dr. Paul
- Clow, Const. Gary
- Council for a Smoke-Free P.E.I.
- Creighan, Karen and MacPhee, Alan E.
- Curtis, John
- Daryl's General Store
- Deagle's General Store
- Dean's Quik Mart
- Department of Health and Social Services
- Department of Provincial Treasury
- Doiron, Kari
- Downe, Judy
- Doyle, Theresa
- Eugene's General Store
- Four Seasons Convenience Store
- Goodick, Maureen
- Heart and Stroke Foundation of Prince Edward Island
- Hughes, Mary
- Imperial Tobacco Canada
- Jay, Shirley
- Kassner, Dr. Rachel
- Kensington Country Oven Restaurant and Recreation Centre
- L & O Butler Ltd.
- Lea, Jeannie
- Lotto Booth
- MacArthur's Limited
- MacArthur's Petro Canada
- MacDonald, Carol
- MacDonald's Convenience
- MacDougall, Mel

List of Interveners (continued)

- MacKenzie, Wendell
- MacRae, Beryl
- Medical Society of Prince Edward Island
- Miller's Murray River Esso
- Milton Convenience
- Murphy, Pat
- National Convenience Store Distributors Association
- Operation ID and Operation ID School Zone
- P.E.I. Home and School Federation Inc.
- P.E.I. Lung Association
- P.E.I. Pharmaceutical Association
- P.E.I. Smokers' Helpline
- Physicians for a Smoke-Free Canada
- Prince Edward Island Division of the Canadian Cancer Society
- Ramsay's Ultramar and Convenience Store
- Reijers, Sjors
- Roberts, George
- Ross, Holly
- Shea, Francis J.
- Shirley's Café
- Steele, Debbie, Bob and Sarah
- Stewart, Dr. David
- Sudsbury, Ada
- SWITCH (Students Working in Tobacco Can Help) Club
- Thompson, Ken and Flora
- Turner, Anne
- Weeks, Verna Lynne
- West Prince Video
- Zelin, Dr. Jenni

Appendix B

List of Written Briefs Received by the Committee

- Background notes concerning taxation of tobacco products on Prince Edward Island, prepared by Department of Provincial Treasury, dated January 15, 2004
- "Retail Sales of Tobacco" presentation prepared by Department of Health and Social Services, dated January 2004
- "Retail Sale of Tobacco Products on PEI," presentation prepared by the Council for a Smoke-Free PEI, dated February 2004.
- "Tobacco Sales and Tobacco Promotion in Pharmacies: Violations of Professional Ethical Standards for Pharmacists," Volumes I and Volume II, prepared by the Canadian Cancer Society, dated September 2001.
- Correspondence from John Curtis, private citizen, dated January 14, 2004
- "Retail Sale of Tobacco Products" presentation prepared by the PEI Pharmaceutical Association, dated March 4, 2004
- "Retail Sale of Tobacco Products on Prince Edward Island," prepared by Physicians for a Smoke-Free Canada, dated March 4, 2004
- "Compilation of Selected Evidence Regarding the Impact of Tobacco Advertising and Promotion," Volume I, prepared by the Canadian Cancer Society, dated December 1998
- "Controlling the Tobacco Epidemic: Selected Evidence in Support of Banning all Tobacco Advertising and Promotion, and Requiring Large, Picture-Based Health Warnings on Tobacco Packages," prepared by the Canadian Cancer Society and the International Union Against Cancer, dated April 2001
- "Retail Sale of Tobacco Products on Prince Edward Island," a brief submitted to the Legislative Standing Committee on Social Development by the Prince Edward Island Division of the Canadian Cancer Society, dated March 4, 2004
- "Lungs are for Life" submission prepared by The Lung Association, dated February 2004.
- Cunningham, Rob, Smoke & Mirrors The Canadian Tobacco War, Ottawa: International Development Research Centre, 1996.
- Three images of "Cigarette Girls," submitted by Rob Cunningham, undated
- "Restrictions on Where Tobacco May Be Sold," briefing note submitted by Rob Cunningham, undated
- "Retail Sale of Tobacco Products in Prince Edward Island" brief prepared by the Medical Society of PEI, dated March 11, 2004
- "Operation ID School Zone," brief prepared by the Coalition québécoise pour le contrôle du tabac, dated August 2001
- "More Smoke and Mirrors: Tobacco Industry-Sponsored Youth Prevention Programs in the Context of Comprehensive Tobacco Control Programs in Canada," prepared by the Ontario Medical Association, dated February 2002
- "Regarding Sales of Tobacco Products in Retail Stores," brief prepared by the National Convenience Store Distributors Association, dated March 11, 2004
- "Supporting Responsible Tobacco Retailing," brief prepared by Operation ID
- "The Retail Sale of Tobacco Products on Prince Edward Island," brief prepared by the Heart and Stroke Foundation of Prince Edward Island, dated March 11, 2004
- Retailers Guide to Bills 62 & 107, The Nova Scotia Tobacco Access Act & Regulations,"

List of Written Briefs Received by the Committee (continued)

prepared by the Nova Scotia Department of Health, dated December 7, 2000

- Correspondence from J. Michael Murphy, "Reducing Youth Access to Tobacco Project" dated March 5, 2004
- Correspondence from Lorraine Robinson, Chair Operation I.D. School Zone, PEI, dated March 18, 2004

Appendix C
Selected Statistics

During the course of its investigations into the retail sale of tobacco products, the Standing Committee on Social Development was presented with statistical information about the topic.

- Department of Provincial Treasury estimates that total sale of tobacco in the province, including GST, is in the order of $65 million. Of that amount, 83% is from the sale of cigarettes, 11% from loose tobacco, 4.5% from tobacco sticks and the remainder from cigars.
- The provincial health tax accounts for approximately 41.5% of the total sales value.
- Industry information indicates that retailers earn approximately 7% on tobacco sales, which translates to between $2.6 and $4.5 million annually.
- In P.E.I., there are 383 outlets that sell tobacco, 19 of which are pharmacies.
- 47,000 Canadian die each year from tobacco; 128 each day; or 1 every 12 minutes. Tobacco is responsible for 22% of all deaths in Canada.
- Tobacco costs the province $10 million per year in direct heath costs, and another $43 million in lost productivity.
- PEI has a smoking rate of 19% in the 15-19 year age group; in the 20-24 year age group, the smoking rate is 33%; and 43% of teen mothers smoke. The overall rate for Prince Edward Island is 23%, which is above the national average.
- 90% of smokers start before the age of 19.
- By age 20, 80% of smokers regret they have started.